IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

GORDON (DAVID) WOODS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.: _____
	)	JURY TRIAL
	)	
BRIDGESTONE AMERICAS	)	
TIRE OPERATIONS, LLC.	)	
	)	
Defendant.	)	

COMPLAINT

Plaintiff, Gordon (David) Woods, by and through his attorneys, alleges for his Complaint as follows:

I. INTRODUCTION

1. Plaintiff brings this action against Bridgestone Americas Tire Operations, LLC., for legal relief to redress unlawful violations of Plaintiff's rights under the Family Medical Leave Act ("FMLA" or "the Act"), 29 U.S.C. §§ 2601, *et seq*.

II. THE PARTIES

A. THE PLAINTIFF

2. Plaintiff, Gordon (David) Woods, currently resides in McMinnville, Tennessee and is a citizen of the United States.

3. Plaintiff had over one year of service as an employee of Defendant, having actually worked greater than 18 years.

4. Plaintiff is an FMLA "eligible employee," specifically under 29 U.S.C. Section 2611(2)(A), i.e. one who worked more than 1,250 hours in the 12 month period preceding his leave at issue in this case.

B. THE DEFENDANT

5. Defendant, Bridgestone Americas Tire Operations, LLC., has a location within the Eastern District of Tennessee, in Warren County, and is an employer within the provisions of the FMLA, specifically under 29 U.S.C. Section 2611(4)(A).

6. At all times material to this action, Defendant has been engaged in commerce as defined by § 2611(1) of the FMLA.

7. The Defendant is bound by the rules and regulations of the Family and Medical Leave Act.

III. JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction).

9. Venue is proper in the Eastern District of Tennessee under 28 U.S.C. §1391(b)-(c), as Defendant employed Plaintiff within this District.

IV. FACTS

10. Defendant employed Woods as an at will employee for approximately 18 years. Woods worked in Defendant's plant in McMinnville (Warren County, Tennessee).

11. Woods has a "serious health condition," Type 2 diabetes, which affects his endocrine system, his blood sugar levels, and requires absences from work. These absences for his Type 2 diabetes are FMLA qualifying.

12. Defendant uses a "rolling" system of FMLA where eligibility in a given year is determined by usage in the prior year.

13. Under this "rolling" method, sometimes referred to as a "lookback" method, the employer must calculate whether the employee is eligible for leave each time the employee seeks to take it. This is done by looking back to the previous 12 months, adding the FMLA taking during that period, and subtracting it from the 12-week maximum. Thus, employees who are under the "rolling" method will move in and out of FMLA protection based upon their usage in the prior 12 months.

14. In April of 2013, Woods called Defendant's human resources officer to request use of FMLA for his diabetes. Together, they looked back to April of 2012 and determined that days had "rolled off," and, thereby, Woods was again eligible for FMLA.

15. The human resources manager did verify to Woods that he had approximately 36-37 hours of FMLA leave available, which Woods was able to verify as correct by examining approximately 36 hours of usage in April of 2012.

16. Being eligible again, Woods used what amounted to FMLA qualifying leave for April 10 and April 11, 2013 and again on or about April 15, 16, 19 and 24, 2013.

17. In May of 2013, Defendant's human resources manager advised Woods that Defendant had taken his April-eligible days and applied them to days he had missed in March of 2013 (days for which Woods had used Accident and Sickness). Defendant further advised that by applying the April-eligible days to March of 2013, Woods no longer had any FMLA leave available to him in April of 2013, and, therefore, he was being fired for those April absences.

18. Woods never agreed that his rolling leave for April of 2013 could be taken away and used for March of 2013.

19. By terminating Woods because he used what should have been designated as FMLA leave in April of 2013, Defendant has violated the FMLA.

V. COUNT ONE—FMLA INTERFERENCE

20. Plaintiff repeats and incorporates by reference the allegations contained in Paragraphs 1-19 herein. By its actions alleged herein, Defendant violated the provisions of Section 2615(a)(1) of the FMLA by interfering with, restraining and/or denying Plaintiff the exercise of or the attempt to exercise his rights under the FLMA.

VI. COUNT TWO – FMLA RETALIATION

21. Plaintiff repeats and incorporates by reference the allegations contained in Paragraphs 1-20 herein. By its actions alleged herein, Defendant violated the provisions of Section 2615(a)(2) of the FMLA by discharging and/or unlawfully discriminating against the Plaintiff for exercising rights under the FMLA.

VII. PRAYER FOR RELIEF

22. WHEREFORE, the Plaintiff prays for the following relief:

A. That proper process issue along with a copy of this complaint requiring the Defendants to appear and answer;

B. That Plaintiff be awarded damages in the amount of any wages, salary, employment benefits or other compensation, including, but not limited to back pay and front pay (or reinstatement), plus an equal amount of liquidated damages and/or prejudgment interest;

C. Any actual monetary loss sustained by the Plaintiff, plus an equal amount of liquidated damages and/or prejudgment interest;

D. Reasonable attorneys' fees;

E. The costs and expenses of this action;

F. Such other legal and equitable relief to which Plaintiff may be entitled; and

G. Plaintiff further demands a Jury to try this cause.

Respectfully submitted,

GILBERT RUSSELL McWHERTER PLC

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